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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/030,797
Filing Date: May 13, 2002
Appellant(s): KLOPFENSTEIN ET AL.

Joel M. Fogelson
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 11/09/2010 appealing from the Office action mailed 06/09/2010.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application: Claims 1-4, 6, 8-9, 11-12 and 19-21 are pending and rejected in the application.

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being

maintained by the examiner except for the grounds of rejection (if any) listed under the subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

6,763,522	KONDO ET AL.	7-2004
WO 99/03268	OZKAN ET AL.	1-1999
5844595	BLATTER ET AL.	12-1998
5,617,565	AUGENBRAUN ET AL.	4-1997
6,445,923	FUJIMORI ET AL.	9-2002

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

35 USC § 101 Rejections Withdrawn

Applicant's arguments, see Appeal Brief filed 11/09/2010, page 8, with respect to 35 USC § 101 rejections have been fully considered. The 35 USC § 101 rejections of claims 1-4, 6, 8-9, 11-12 and 19-21 have been withdrawn.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 4, 6, and 8 are rejected under 35 U.S.C. 102(e) as being anticipated by Kondo et al. (US Patent 6,763,522).

Regarding claim 1, Kondo et al. disclose a method in a system for decoding packetized program information including ancillary program specific information comprising a plurality of hierarchically ordered information tables (column 3, line 65 – column 4, line 3), said ancillary information being for use in acquiring and decoding packetized program information to provide a video program for display (column 3, line 65 – column 4, line 3), comprising the steps of: detecting a mismatch between a version number of a first table of said program specific information and a corresponding version number of said first table conveyed in a second table (column 10, lines 1-12; column 4, lines 6-17); ensuring compatibility of said first table version number conveyed in said first and second tables in response to said detected mismatch using a forced compatible version number, wherein using said compatible version number is forced before acquiring new information corresponding to at least one of: said first table and said second table (column 8, lines 59-66; column 9, lines 6-9, 25-28; column 11, lines 2-50; also see “Response to Arguments” above); and decoding packetized program information using program specific information including said first and second tables, at least one of said first and second tables including said forced compatible version number to provide a video program for display (column 4, lines 25-33; column 2, lines

41-44); wherein said step of ensuring compatibility of said first table version number conveyed in said first and second tables includes at least one of the steps of: substituting a version number for said first table version number by substituting in said first table said first table number conveyed in said second table, to ensure compatibility, substituting said version number for said first table for said table version by substituting in said second table said first table number conveyed in said first table, to ensure compatibility, and reverting to a previous version of at least one of (a) said first table, and (b) said second table, to ensure version number compatibility (column 10, lines 6-8; see "Response to Arguments" above).

Regarding claim 4, Kondo et al. also disclose said second table conveys a plurality of version numbers corresponding to version numbers conveyed in said plurality of hierarchically ordered information tables (TABLE 1 in column 9), and said detecting step includes the step of comparing individual version numbers of said plurality of hierarchically ordered information tables against corresponding individual version numbers conveyed in said second table (column 10, line 63 – column 11, line 53).

Regarding claim 6, Kondo et al. also disclose said substituting step comprises overwriting said first table version number conveyed in at least one of (a) said first table, and (b) said second table, to ensure compatibility (column 10, lines 6-8).

Regarding claim 8, Kondo et al. also disclose said step of ensuring compatibility of said first table version number conveyed in said first and second tables includes the step of acquiring at least one of (a) a new version of said first table, and (b) a new

version of said second table, to ensure version number compatibility after said forcing operation is performed (column 11, lines 2-10).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kondo et al. (US Patent 6,763,522) as applied to claims 1, 4, 6, and 8 above, and further in view of Ozkan et al. (WO 99/03268).

Regarding claim 2, Kondo et al. disclose second table contains information for acquiring program specific information conveyed in other tables including identifiers for identifying data packets comprising said first table (TABLE 1 in column 9). Kondo et al. also disclose first table comprises a channel map, which contains a list of all of the channels with their attributes (column 9, lines 1-6). However, Kondo et al. do not disclose the channel map to associate a transmission channel carrier frequency with data identifiers used to capture data streams constituting a program conveyed on a broadcast channel.

Ozkan et al. disclose a channel map to associate a transmission channel carrier frequency with data identifiers used to capture data streams constituting a program conveyed on a broadcast channel (abstract).

One of ordinary skill in the art at the time the invention was made would have been motivated to incorporate the channel map taught by Ozkan et al. into the channel map taught by Kondo et al. because of simple implementation.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kondo et al. (US Patent 6,763,522) as applied to claims 1, 4, 6, and 8 above, and further in view of Blatter et al. (US Patent 5,844,595).

Regarding claim 3, see the teachings of Kondo et al. as discussed in claim 1 above. However, Kondo et al. do not disclose examining said program specific information for error indications by examining at least one of (a) an MPEG transport error indicator, (b) an MPEG discontinuity indicator, (c) an MPEG continuity counter, and decoding said packetized program information in response to said examination determination of an error free condition.

Blatter et al. disclose examining program specific information for error indications (abstract) by examining at least one of (a) an MPEG transport error indicator, (b) an MPEG discontinuity indicator, (c) an MPEG continuity counter (column 12, lines 16-22; column 15, lines 44-67), and decoding packetized program information in response to said examination determination of an error free condition (abstract).

One of ordinary skill in the art at the time the invention was made would have been motivated to incorporate the concept of examining the program specific information for errors and decoding the packetized program information in response to a determination of an error free condition taught by Blatter et al. into the method taught by Kondo et al. for ensuring data reliability.

Claims 9 and 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kondo et al. (US Patent 6,763,522) and Blatter et al. (US Patent 5,844,595).

Regarding claim 9, Kondo et al. disclose a method in a system for decoding packetized program information including ancillary program specific information comprising a plurality of hierarchically ordered information tables (column 3, line 65 – column 4, line 3), said ancillary information being for use in acquiring and decoding packetized program information to provide a video program for display (column 3, line 65 – column 4, line 3), comprising the steps of: detecting a mismatch between a version number of a first table of said program specific information and a corresponding version number of said first table conveyed in a second table (column 10, lines 1-12; column 4, lines 6-17); decoding packetized program information (column 4, lines 25-33; column 2, lines 41-44) by disregarding said first table version number conveyed in said first and second tables in response to said detected mismatch and by applying program specific information including information in said first table (column 11, lines 2-10).

However, Kondo et al. do not disclose examining said program specific information for an error condition and decoding said packetized program information in response to the absence of an error condition.

Blatter et al. disclose examining said program specific information for an error condition (abstract) and decoding said packetized program information in response to the absence of an error condition (abstract; also see "Response to Arguments" above).

One of ordinary skill in the art at the time the invention was made would have been motivated to incorporate the concept of examining the program specific information for error condition and decoding the packetized program information in response to the absence of an error condition taught by Blatter et al. into the method taught by Kondo et al. for ensuring data reliability.

Regarding claim 11, see the teachings of Kondo et al. and Blatter et al. as discussed in claim 10 above. Furthermore, Blatter et al. also disclose said error condition is indicated by at least one of (a) an MPEG transport error indicator, (b) an MPEG discontinuity indicator, (c) an MPEG continuity counter (column 12, lines 16-22; column 15, lines 44-67).

Claim 12 is rejected for the same reason as discussed in claim 4 above with reference to claim 9 above.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kondo et al. (US Patent 6,763,522) and Augenbraun et al. (US Patent 5,617,565).

Regarding claim 19, Kondo et al. disclose a method in a system for decoding packetized program information including ancillary program specific information comprising a plurality of hierarchically ordered information tables (column 3, line 65 – column 4, line 3), said ancillary information being for use in acquiring and decoding packetized program information to provide a video program for display (column 3, line 65 – column 4, line 3), comprising the steps of: detecting a fault condition in program specific information comprising at least one of (a) a version number incompatibility between a version number of a first table and a corresponding version number of said

first table conveyed in a second table, and (b) a PSI error condition (column 10, lines 1-12; column 4, lines 6-17); indicating in a database said transmission channel is associated with said detected fault condition (column 9, lines 25-31). Also, Kondo et al. also disclose the information associated with the fault detection is flagged invalid and not displayed (column 9, lines 25-31). However, Kondo et al. do not disclose removing a channel associated with said fault condition from a User's viewable active channel line-up list.

Augenbraun et al. disclose removing a channel from a User's viewable active channel line-up list (column 5, lines 13-17).

One of ordinary skill in the art at the time the invention was made would have been motivated to incorporate the step of removing a channel from the line-up list taught by Augenbraun et al. into the method taught by Kondo et al. because such doing would make the method user-friendlier.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kondo et al. (US Patent 6,763,522) and Augenbraun et al. (US Patent 5,617,565) as applied to claim 19 above, and further in view of Blatter et al. (US Patent 5,844,595).

Regarding claim 20, see the teachings of Kondo et al. and Augenbraun et al. as discussed in claim 19 above. However, the proposed combination of Kondo et al. and Augenbraun et al. does not disclose detecting a PSI error condition comprising at least one of (a) an MPEG transport error, (b) an MPEG discontinuity error, (c) an MPEG

continuity count error, and (d) an error indicated by a variance between successive time stamps.

Blatter et al. disclose detecting a PSI error condition (abstract) comprising at least one of (a) an MPEG transport error, (b) an MPEG discontinuity error, (c) an MPEG continuity count error, and (d) an error indicated by a variance between successive time stamps (column 12, lines 16-22; column 15, lines 44-67).

One of ordinary skill in the art at the time the invention was made would have been motivated to incorporate the step of detecting PSI error condition taught by Blatter et al. into the method taught by Kondo et al. and Augenbraun et al. for data reliability.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kondo et al. (US Patent 6,763,522) and Augenbraun et al. (US Patent 5,617,565) as applied to claim 19 above, and further in view of Fujimori et al. (US Patent 6,445,923).

Regarding claim 21, see the teachings of Kondo et al. and Augenbraun et al. as discussed in claim 19 above. However, the proposed combination of Kondo et al. and Augenbraun et al. does not disclose indicating a channel as being associated with a fault condition in a user's viewable channel line-up list.

Fujimori et al. disclose indicating a channel as being associated with a fault condition in a user's viewable display (column 2, lines 1-8).

One of ordinary skill in the art at the time the invention was made would have been motivated to incorporate the step of indicating a channel as being associated with a fault condition in a user's viewable display taught by Fujimori et al. into the method taught by

Kondo et al. and Augenbraun et al. because doing such would make the method user-friendlier.

(10) Response to Argument

REJECTION of CLAIMS 1-4, 6, 8-9, 11-12 and 19-21 UNDER 35 U.S.C. § 101

Rejections of claims 1-4, 6, 8-9, 11-12 and 19-21 under 35 U.S.C. § 101 have been withdrawn. As such, Appellant's arguments on page 8 with respect to rejections of claims 1-4, 6, 8-9, 11-12 and 19-21 under 35 U.S.C. § 101 are moot.

REJECTION OF CLAIMS 1, 4, 6, and 8 UNDER 35 U.S.C. § 102(e)

On page 10, Appellant argues that since Kondo discloses "replacing or updating the VCT, Kondo is clearly reacquiring a table as opposed to substituting a version number or reverting to a previous version." In response, the Examiner respectfully disagrees. As quoted by Appellant in column 11, lines 3-8 of Kondo, Kondo discloses updating or replacing the table with the most updated table. First of all, it is noted that the updating or replacing of the table is equivalent to substitution of the table. Further, Kondo in column 4, discloses the tables to include the version number. Therefore, substitution of the table leads to substitution of the version number included therein.

Now the question is whether the claim language requires other data of the tables not to be substituted. The answer is, in contrast with Appellant's arguments, nowhere in the claim language requires that other data of the table must be kept intact. At most, claim 1 of the current invention recites, " wherein using said compatible version number is forced before acquiring new information corresponding to at least one of: said first table and said second table." The Examiner respectfully submits that the feature

underlined above is not the same as that of "requiring the table not to be substituted, or updated, or replaced."

As explained in the Office Action dated 03/24/2008, the Examiner respectfully submits that Kondo et al. also disclose the limitation of "wherein using said compatible version number is forced before acquiring new information corresponding to at least one of: said first table and said second table." For example, as disclosed by Kondo et al., the version number of the VCT in the MGT is used or, in other words, forced into that of the VCT in the system before the next piece of new information of either the VCT or MGT from broadcasting is available. In other words, it won't be updated or forced again until new information is acquired. This is so because the claim language does not specify which new information (corresponding to at least one of: said first table and said second table) it is regarding to. The Examiner respectfully submits that there are at least two kinds of new information are relevant in this context: (1) new information in the table that is about to replace the old table at current time and (2) new information in the table that is coming next to the table described in (1) above (see column 10, lines 1-12 for "information in the tables are provided continuously", which constitutes the ground for there existing new information described in (2) above). Both of these kinds of new information correspond to at least one of: said first table and said second table because it contains updated information for said at least one of: said first table and said second table.

The Examiner respectfully submits that the claim language is too broad that it lets the new information described in (2) read on.

Besides that, there is not a single limitation reciting the feature of "requiring the table not to be substituted, or updated, or replaced" or "substituting the version numbers in the tables only."

On page 11, Appellant argues that, "claim 1 specifically provides solutions to avoid reacquiring a table." The Examiner respectfully submits that this argument is irrelevant for the reason of the feature of "avoiding reacquiring a table" not being recited in the claim.

Also on page 11, according to his or her arguments described above, Appellant argues that Kondo does not teach, "wherein said step of ensuring compatibility of said first table version number conveyed in said first and second tables includes at least one of the steps of: substituting a version number for said first table version number by substituting in said first table said first table number conveyed in said second table, to ensure compatibility, substituting said version number for said first table for said table version by substituting in said second table said first table number conveyed in said first table, to ensure compatibility, and reverting to a previous version of at least one of (a) said first table, and (b) said second table, to ensure version number compatibility." In response, the Examiner respectfully disagrees.

For the reasons set forth above, Kondo does disclose the step of "substituting a version number for said first table version number by substituting in said first table said first table number conveyed in said second table, to ensure compatibility." It does so by substituting the first table with the second table as explained above. Since the recited

limitation only requires the step of ensuring compatibility to include one of the steps, and Kondo discloses the first step, Kondo discloses the whole limitation.

On page 12, Appellant argues that, "claim 1 highlights that the resolution of the mismatch occurs by forcing the compatibility of the version numbers without reacquiring data for a table." In response, the Examiner respectfully disagrees for the same reason as discussed above.

Also on page 12, Appellant argues that, "new information is obtained in Kondo in response to a mismatch prior to compatibility." In response, the Examiner respectfully submits that the claim language does not specify which new information (corresponding to at least one of: said first table and said second table) it is regarding to. Also as described above, the Examiner respectfully submits that there are at least two kinds of new information are relevant in this context: (1) new information in the table that is about to replace the old table at current time and (2) new information in the table that is coming next to the table described in (1) above (see column 10, lines 1-12 for "information in the tables are provided continuously", which constitutes the ground for there existing new information described in (2) above). Both of these kinds of new information correspond to at least one of: said first table and said second table because it contains updated information for said at least one of: said first table and said second table.

At the end of page 12, Appellant argues that Kondo does not disclose "ensuring compatibility of said first table version number conveyed in said first and second tables in response to said detected mismatch using a forced compatible version number,

wherein using said compatible version number is forced before acquiring new information corresponding to at least one of: said first table and said second table." In response, the Examiner respectfully disagrees. This argument has been addressed above thus is not repeated.

REJECTION OF CLAIMS 9 and 11-12 UNDER 35 U.S.C. § 103(a)

On page 13, regarding claim 9, Appellant argues that Kondo does not teach "disregarding said first table version number conveyed in said first and second tables in response to said detected mismatch". In response, the Examiner respectfully disagrees. First, Kondo discloses disregarding the version number conveyed in said first table because the first table has been replaced with the second table (column 11, lines 2-10). Second, Kondo discloses disregarding the version number conveyed in said second table because, after replaced, it is the other information that is used during the decoding process and the version number is not used. The version number is only used for updating purposes (see column 8, lines 59-66; column 11, lines 2-10), not decoding purposes (column 4, lines 25-34).

REJECTION OF CLAIM 19 UNDER 35 U.S.C. § 103(a)

On page 14, Appellant argues that "Augenbraun does not teach that the removal of the channel is associated with a fault condition." In response, the Examiner respectfully submits that, in the Office Action dated 03/24/2008, Augenbraun is relied upon to disclose "removing a channel from a User's viewable active channel line-up list" to be combined with Kondo's teachings of detecting a channel being associated with a fault condition (Kondo, column 9, lines 25-31).

The cited passage from Augenbraun, as quoted by Appellant on page 14, states that, "... it is also possible to customize the channel guide in that the channels that the user rarely access can be removed upon the initial display ..."

A channel with a fault condition obviously falls into the category of "rarely access" because it has errors. Actually, it cannot be accessed. If it cannot be accessed, Augenbraun teaches that the user removes it from being displayed (it is emphasized that the claim language does not recite "automatic removal"). The removal is desirable in for the sake of a nice user interface. Therefore, the motivation to incorporate the teachings of Augenbraun into Kondo is well obvious.

REJECTIONS OF OTHER CLAIMS

Since Appellant does not point out any specific limitations in any other claims, the rejections of which he or she disagrees with the Examiner, but at most, Appellant only relies on arguments with respect to the independent claims, the discussions of which have been set forth above, the Examiner will not address these claims under the assumption that if Appellant's arguments regarding the base claims have been proven not persuasive, the rejections of other claims do have well-founded grounds.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Art Unit: 2484

/Hung Q Dang/

Examiner, Art Unit 2484

Conferees:

/Thai Tran/

Supervisory Patent Examiner, Art Unit 2484

/Mehrdad Dastouri/

Supervisory Patent Examiner, TC 2400